THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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DATED: 28-09-2005

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WRIT PETITION No.20433 OF 2005

Between:

C.Anantha Reddy . . .Petitioner

And

The Commissioner for Cooperation and Registrar of Cooperative Societies, A.P., Hyderabad, and others

. . .Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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WRIT PETITION No.20433 OF 2005

O R D E R:

The petitioner is functioning as Assistant Manager in Karimnagar District Cooperative Central Bank Limited. Disciplinary proceedings were initiated against him by issuing a show cause notice and departmental enquiry was conducted. An order was passed on 28-07-2004 imposing the punishment of reducing his basic pay to the minimum time scale in category IV 'A' class from Rs.6,640/- to Rs.2,650/-. That punishment was said to have been inflicted as per Clause (V)(d) of Chapter XIII of award/settlement dated 15-06-1997.

The petitioner challenged the same by filing WP.No.13986 of 2004. His contention was that the clause referred to above does not permit for imposition

of such punishment. The writ petition was allowed on
08-09-2005 and the fifth respondent, Person Incharge/Chairman of the District Cooperative Central Bank Limited, Karimnagar, was directed to pass fresh orders.

In pursuance of the directions issued by this Court, the fifth respondent issued a show cause notice dated 12-09-2005 proposing to inflict the punishment of dismissal from service and required the petitioner to submit his explanation. The same is challenged in this writ petition.

Sri D.Prakash Reddy, learned Senior Counsel appearing for the petitioner submits that when the initial punishment itself was of reduction of pay scale, there was absolutely no justification for the fifth respondent in issuing a show cause notice proposing to inflict the punishment of dismissal. He submits that on the face of it, the show cause notice speaks about lack of bona *fides* in the matter.

Sri P.M.Gopal Rao, learned counsel appearing for respondents 3 to 5 submits that the only major punishment that can be imposed against the petitioner, in accordance with the relevant provisions of the award, is dismissal and the fifth respondent was left with no alternative except to propose the said punishment.

The petitioner challenges the show cause notice dated 12-09-2005. It is true that interference in the show cause notice is almost a rare exercise. In this case, one significant aspect of the matter is that the punishment of reduction of pay scale was found to be impermissible under the Rules. Through an order passed in WP.No.13986 of 2004, after setting aside the order dated 28-07-2004, this Court directed the fifth respondent to pass fresh orders in terms of the award/settlement. By no stretch of imagination, the fifth respondent can propose to inflict a greater and more severe punishment, than the one imposed under order dated
28-07-2004 taking advantage of the remand like situation subsequent to the order passed by this Court. The show cause notice cannot be sustained in law and it runs contrary to the letter and spirit of the order passed by this Court in WP.No.13986 of 2004.

In the normal course, this Court would have simply set aside the show cause notice, leaving it open to the fifth respondent to issue a fresh show cause

notice. Having regard to the fact that the petitioner is going to retire from service on 30-09-2005, both the parties have agreed on a course of action to give a quietus to the entire controversy. It is represented that the petitioner is agreeable for the punishment of stoppage of last increment, which is due to him and to pay a sum of Rs.70,000/- towards clearance of the liability determined against himself and others. The same is taken on record.

Hence, the writ petition is disposed of directing that the disciplinary proceedings initiated against the petitioner shall stand concluded with the stoppage of last increment that was due to the petitioner and that the respondents shall be entitled to withhold a sum of Rs.70,000/- from the retirement benefits payable to the petitioner.

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(L.NARASIMHA REDDY, J)

28th SEPTEMBER, 2005.

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